

2019 Regular Session

HOUSE BILL NO. 149

BY REPRESENTATIVE MARINO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PAROLE: Provides relative to various provisions affecting parole

1 AN ACT

2 To amend and reenact R.S. 15:529.2(A), 571.5(B)(2), 574.4(C)(2)(a)(introductory

3 paragraph) and (b), 574.4.1(A)(1) and (D)(1), 574.4.3(B), 574.4.4,

4 574.9(H)(1)(a)(introductory paragraph), (iii), and (iv), 827(A)(7), and 1111(D)(1) and

5 Code of Criminal Procedure Article 901.1, to enact R.S. 13:5401(B)(3)(d), R.S.

6 15:571.5(B)(3), 574.4.1(D)(3), and 574.9(H)(1)(a)(v), and to repeal R.S.

7 15:574.2(C)(4), relative to parole; to provide relative to reentry court programs; to

8 prohibit persons in reentry court programs from being eligible for parole and from

9 receiving diminution of sentence for good behavior or participation in certain

10 programs; to provide relative to release of offenders on parole based on diminution

11 of sentence for good behavior or participation in certain programs; to authorize the

12 committee on parole to impose special conditions of supervision on certain

13 offenders; to repeal provisions which authorize the release of certain offenders on

14 the offender's parole eligibility date; to repeal provisions relative to intensive parole

15 supervision; to provide relative to the parole release date of a person who was

16 sentenced as a habitual offender for the purpose of participating in a work release

17 program; to amend the eligibility requirements of a work release program; to

18 authorize participation of a person sentenced as a habitual offender under certain

19 circumstances; to provide relative to technical violations committed by an offender



1 the requirements of this Section and of any rules or regulations adopted by the  
2 secretary in accordance with the provisions of this Section.

3 \* \* \*

4 §571.5. Supervision upon release after diminution of sentence for good behavior;  
5 conditions of release; revocation

6 \* \* \*

7 B.

8 \* \* \*

9 (2) For any prisoner released because of diminution of sentence pursuant to  
10 this Part on or after August 1, 2020, the committee on parole may impose special  
11 conditions of supervision which include participation in additional programming by  
12 the prisoner as determined to be necessary by a validated risk-assessment tool  
13 approved by the department.

14 ~~(2)~~(3) The person released because of diminution of sentence pursuant to this  
15 Part shall be supervised in the same manner and to the same extent as if he were  
16 released on parole. The supervision shall be for the remainder of the original full  
17 term of sentence. If a person released because of diminution of sentence pursuant  
18 to this Part violates a condition imposed by the parole committee, the committee  
19 shall proceed in the same manner as it would to revoke parole to determine if the  
20 release upon diminution of sentence should be revoked.

21 \* \* \*

22 §574.4. Parole; eligibility; juvenile offenders

23 \* \* \*

24 C.

25 \* \* \*

26 ~~(2)(a) Except as provided in R.S. 15:574.2(C)(4), in~~ In cases where the  
27 offender has been convicted of, or where adjudication has been deferred or withheld  
28 for the perpetration or attempted perpetration of a violation of a sex offense as  
29 defined in R.S. 15:541 and parole is permitted by law and the offender is otherwise

1 eligible, the committee shall consider reports, assessments, and clinical information,  
2 as available, including any testing and recommendations by mental health  
3 professionals, as to all of the following:

4 \* \* \*

5 (b) ~~Except as provided in R.S. 15:574.2(C)(4), the~~ The committee shall  
6 render its decision ordering or denying the release of the prisoner on parole only after  
7 considering this clinical evidence where such clinical evidence is available.

8 \* \* \*

9 §574.4.1. Parole consideration and hearings

10 A.(1) The parole hearings shall be conducted in a formal manner in  
11 accordance with the rules formulated by the committee and with the provisions of  
12 this Part. ~~Except as provided in R.S. 15:574.2(C)(4), before~~ Before the parole of any  
13 prisoner is ordered, such prisoner shall appear before and be interviewed by the  
14 committee, except those incarcerated in parish prisons or parish correctional centers,  
15 in which case one committee member may conduct the interview. The committee  
16 may order a reconsideration of the case or a rehearing at any time.

17 \* \* \*

18 D.(1) Except as provided in Paragraph (2) or (3) of this Subsection, the  
19 release date of the prisoner shall be fixed by the committee, but such date shall not  
20 be later than six months after the parole hearing or the most recent reconsideration  
21 of the prisoner's case.

22 \* \* \*

23 (3) When granting parole of a prisoner who was sentenced as a habitual  
24 offender pursuant to R.S. 15:529.1, if the committee on parole determines that it is  
25 necessary for the prisoner to participate in a work release program established  
26 pursuant to R.S. 15:1111, the release date of the prisoner may be extended to no later  
27 than one year after the parole hearing or the most recent reconsideration of the  
28 prisoner's case.

29 \* \* \*

1 §574.4.3. Parole requirements for certain sex offenders

2 \* \* \*

3 B. If a person who is otherwise eligible for intensive ~~parole supervision~~  
4 incarceration pursuant to R.S. 15:574.4.4, has been convicted of one of the sexual  
5 offenses enumerated in this Section and the intensive ~~parole supervision~~  
6 incarceration program is applicable to any of those enumerated crimes, then the  
7 provisions of this Section shall apply.

8 \* \* \*

9 §574.4.4. ~~Parole; intensive parole supervision~~ Intensive incarceration program;  
10 eligibility

11 A. Notwithstanding ~~the provisions of R.S. 15:574.4(A)(1), a person,~~  
12 ~~otherwise eligible for parole,~~ any other provision of law, a defendant convicted of  
13 a nonviolent first felony offense and committed to the Department of Public Safety  
14 and Corrections, or of a nonviolent second felony offense and committed to the  
15 Department of Public Safety and Corrections, may be eligible ~~for intensive parole~~  
16 ~~supervision upon successful completion of~~ to participate in the intensive  
17 incarceration program. In addition, any person convicted of a first or second offense  
18 for possession of amphetamine or methamphetamine or cocaine or oxycodone or  
19 methadone or of a first offense for distribution, dispensing, or possession with intent  
20 to produce, manufacture, distribute, or dispense amphetamine or methamphetamine  
21 or cocaine or oxycodone or methadone, in violation of R.S. 40:967(B)(1) or R.S.  
22 40:967(B)(4)(b) when the amount of amphetamine or methamphetamine or cocaine  
23 or oxycodone or methadone involved was twenty-eight grams or less, may be  
24 eligible to participate in the intensive incarceration program. ~~Notwithstanding the~~  
25 ~~provisions of R.S. 40:967(B)(4)(b), a person otherwise eligible for participation in~~  
26 ~~the intensive incarceration program may be eligible for intensive parole supervision~~  
27 ~~upon successful completion of intensive incarceration.~~ The intensive incarceration  
28 ~~and intensive parole supervision~~ program shall be established and administered by

1 the department. The offender may be considered for participation in the program if  
2 all of the following conditions are met:

3 (1) The offender is sentenced to be committed to the Department of Public  
4 Safety and Corrections to serve ten years or less.

5 (2) The department, through the division of probation and parole within the  
6 office of adult services, recommends to the sentencing court that the offender is  
7 particularly likely to respond affirmatively to participation in the program.

8 (3) The court at sentencing recommends that the offender be considered for  
9 participation in the program.

10 (4) The secretary of the department, or his designee, finds, after an  
11 evaluation, that the offender is particularly likely to respond affirmatively to  
12 participation in the program.

13 (5) The offender voluntarily enrolls in the program after having been advised  
14 by the department of the rules and regulations governing participation in the  
15 program.

16 (6) The court sentences an offender in the drug division probation program  
17 pursuant to R.S. 13:5304.

18 ~~B. Notwithstanding the provisions of R.S. 15:574.4(A)(1), an offender who~~  
19 ~~is otherwise eligible for intensive incarceration and intensive parole supervision, but~~  
20 ~~who has not been recommended for participation in the intensive incarceration and~~  
21 ~~intensive parole supervision program by the division of probation and parole or the~~  
22 ~~sentencing judge, as provided for in Paragraphs (A)(2) and (3) of this Section, may~~  
23 ~~additionally be placed in the intensive incarceration and intensive parole supervision~~  
24 ~~program if all of the following conditions are met:~~

25 ~~(1) The staff at the adult reception and diagnostic center, after a thorough~~  
26 ~~evaluation, determines that the offender is suitable and appropriate for participation.~~

27 ~~(2) The warden at the adult reception and diagnostic center concurs with the~~  
28 ~~staff recommendation.~~

1           ~~(3) The warden of the facility where the offender would be placed concurs~~  
2           ~~with the recommendation of the staff and warden of the adult reception and~~  
3           ~~diagnostic center.~~

4           ~~(4) The offender meets other conditions of participation as set forth in~~  
5           ~~Paragraphs (A)(1), (4), and (5) of this Section.~~

6           ~~C.(1) Notwithstanding the provisions of R.S. 15:574.4(A)(1), a person,~~  
7           ~~otherwise eligible for parole, convicted of a first felony offense and committed to the~~  
8           ~~Department of Public Safety and Corrections, or of a second felony offense and~~  
9           ~~committed to the Department of Public Safety and Corrections, may be eligible for~~  
10           ~~intensive parole supervision upon successful completion of intensive incarceration.~~  
11           ~~The intensive incarceration and intensive parole supervision program shall be~~  
12           ~~established and administered by the department.~~

13           ~~(2) The court may sentence an offender directly to the program if the court~~  
14           ~~commits the offender to the Department of Public Safety and Corrections to serve~~  
15           ~~ten years or less.~~

16           ~~D.B.~~ For purposes of this Section, a "first offender" shall not have been  
17           convicted previously of another felony as provided in R.S. 15:572(C) and shall not  
18           have been granted an automatic pardon as provided in R.S. 15:572(B).

19           ~~E.C.~~ The duration of intensive incarceration shall not be less than one  
20           hundred eighty calendar days.

21           ~~F.D.~~ The participating offender shall be evaluated by the program staff on  
22           a continual basis throughout the entire period of intensive incarceration. The  
23           evaluation shall include the offender's performance while incarcerated, ~~the likelihood~~  
24           ~~of successful adjustment on parole, and other factors deemed relevant by the~~  
25           ~~committee on parole or the program staff. The evaluation shall provide the basis for~~  
26           ~~the recommendations by the department to the committee on parole upon the~~  
27           ~~offender's completion of intensive incarceration.~~ Violation of any institutional or  
28           program rules or regulations may subject the participant to removal from the  
29           program by the department.

1            G.E.(1) If an offender is denied entry into the intensive incarceration  
 2 program for physical or mental health reasons or for failure to meet the department's  
 3 suitability criteria, the department shall notify the sentencing court, and based upon  
 4 the court's order, shall either return the offender to court for resentencing in  
 5 accordance with the provisions of the Code of Criminal Procedure Article 881.1 or  
 6 return the offender to a prison to serve the remainder of his sentence as provided by  
 7 law.

8            (2) If an offender enters the intensive incarceration program and is  
 9 subsequently removed for physical or mental health reasons or for failure to meet the  
 10 department's suitability criteria, the department shall notify the sentencing court and,  
 11 based upon the court's order, shall either return the offender to court for resentencing  
 12 in accordance with the provisions of Code of Criminal Procedure Article 881.1 or  
 13 return the offender to a prison to serve the remainder of his sentence as provided by  
 14 law. If an offender enters the intensive incarceration program and is removed for  
 15 violating any institutional or program rules or regulations, the offender shall be  
 16 assigned to the general population to serve the remainder of his sentence as provided  
 17 by law.

18            ~~H. When an offender completes intensive incarceration, the committee on~~  
 19 ~~parole shall review the case of the offender and recommend either that the offender~~  
 20 ~~be released on intensive parole supervision or that the offender serve the remainder~~  
 21 ~~of his sentence as provided by law. When the offender is released to intensive parole~~  
 22 ~~supervision by the committee, the committee shall require the offender to comply~~  
 23 ~~with the following conditions of intensive parole supervision in addition to any other~~  
 24 ~~conditions of parole ordered by the committee:~~

25            ~~(1) Be subject to multiple monthly visits with his supervising officers~~  
 26 ~~without prior notice.~~

27            ~~(2) Abide by any curfew set by his supervising officers.~~



1 §574.9. Revocation of parole for violation of condition; committee panels; return  
2 to custody hearing; duration of reimprisonment and reparole after revocation;  
3 credit for time served; revocation for a technical violation

4 \* \* \*

5 H.(1)(a) Any offender who has been released on parole and who has been  
6 determined by the committee on parole to have committed a technical violation of  
7 the conditions of parole ~~as determined by the committee on parole~~, shall be required  
8 to serve the following sentences:

9 \* \* \*

10 (iii) For a third ~~or subsequent~~ technical violation, not more than forty-five  
11 days.

12 (iv) For a fourth or subsequent technical violation, not more than ninety  
13 days.

14 (v) For custodial substance abuse treatment programs, not more than ninety  
15 days.

16 \* \* \*

17 §827. Duties of Department of Public Safety and Corrections

18 A. In addition to other duties imposed upon the department it shall be the  
19 duty of the department to:

20 \* \* \*

21 (7) Establish a procedure that provides for each offender who is sentenced  
22 to one hundred eighty days or more in the custody of the Department of Public  
23 Safety and Corrections, a written case plan that is based on the results of an  
24 assessment of the offender's risk and needs and includes participation in  
25 programming that addresses the needs identified in that assessment. ~~For offenders~~  
26 ~~eligible for administrative parole pursuant to R.S. 15:574.2(C)(4), the case plan~~  
27 ~~should be reasonably achievable prior to the offender's administrative parole~~  
28 ~~eligibility date and the department shall notify the committee in writing of an~~  
29 ~~offender's compliance or noncompliance with the case plan not less than sixty days~~

1 ~~before an offender's administrative parole release date.~~ The provisions of this  
2 Paragraph shall be implemented to the extent that funds are appropriated for this  
3 purpose and to the extent that it is consistent with the available resources.

4 \* \* \*

5 §1111. Work release program

6 \* \* \*

7 I.(1) Any inmate who has been convicted of forcible or second degree rape  
8 (R.S. 14:42.1), aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64), attempted  
9 murder (R.S. 14:27 and 29), or attempted armed robbery (R.S. 14:27 and 64), shall  
10 be eligible to participate in a work release program during the last six months of his  
11 term. Any person sentenced as a habitual offender pursuant to R.S. 15:529.1 shall  
12 be eligible to participate in a work release program during the last year of his term  
13 or pursuant to the provisions of R.S. 15:574.4.1(D)(3), if the offender has obtained  
14 a low-risk level designation determined by a validated risk assessment instrument  
15 approved by the secretary of the Department of Public Safety and Corrections.  
16 Notwithstanding the provisions of this Section and unless the inmate is eligible at an  
17 earlier date, those inmates who have served a minimum of fifteen years in the  
18 custody of the department for those crimes enumerated in this Section shall be  
19 eligible to participate in a work release program during the last twelve months of  
20 their terms.

21 \* \* \*

22 Section 3. Code of Criminal Procedure Article 901.1 is hereby amended and  
23 reenacted to read as follows:

24 Art. 901.1. Additional sanctions for probation revocation

25 A. Notwithstanding any other provision of law, when a defendant, who is a  
26 first offender on probation with a suspended sentence for a term of seven years or  
27 less at hard labor, or a second offender on probation and having never served time  
28 in a state prison, has his probation revoked for any reason other than a subsequent  
29 felony conviction, the court, upon the recommendation of the division of probation

1 and parole, may order that the offender be committed to the Department of Public  
 2 Safety and Corrections and be considered for participation in the intensive  
 3 incarceration ~~and intensive parole supervision~~ program as provided for in ~~R.S.~~  
 4 ~~15:574.4~~ R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody  
 5 of the department participates in an intensive incarceration program of an eligible  
 6 parish, the department shall reimburse the sheriff's office of the parish conducting  
 7 the program in the amount appropriated by the legislature.

8 B. If the imposition of the sentence was suspended, the defendant shall serve  
 9 the sentence imposed by the court at the revocation hearing. If the defendant is a  
 10 first offender and receives a sentence of seven years or less at hard labor, or a second  
 11 offender on probation and having never served time in a state prison, the court, upon  
 12 recommendation of the division of probation and parole, may order that the offender  
 13 be committed to the department and be considered for participation in the intensive  
 14 incarceration ~~and intensive parole supervision~~ program as provided for in ~~R.S.~~  
 15 ~~15:574.4~~ R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody  
 16 of the department participates in an intensive incarceration program as provided for  
 17 in R.S. 15:574.5, the department shall reimburse the sheriff's office of the parish  
 18 conducting the program in the amount appropriated by the legislature.

19 Section 4. R.S. 15:574.2(C)(4) is hereby repealed in its entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 149 Engrossed

2019 Regular Session

Marino

**Abstract:** Provides relative to parole eligibility of offenders in a reentry court program, provides certain conditions of parole for habitual offenders and offenders released on "good time" parole, repeals the authority for administrative parole and certain provisions relative to intensive parole supervision, provides relative to the parole release date of certain habitual offenders, and authorizes revocation for certain technical violations of parole.

Present law (R.S. 13:5401) authorizes each district court to establish a reentry division of court, and requires each established reentry division of court to establish a workforce development sentencing program. In this regard, present law requires the court, in offering

a defendant the opportunity to request participation in the program, to advise the defendant of the following:

- (1) That participating in the program requires the defendant to waive the right to a trial, to enter a guilty plea, and be sentenced to the custody of Dept. of Public Safety and Corrections (DPS&C). After successful completion of the program, the defendant may petition the court to suspend the remainder of his sentence and be placed on probation under the intensive supervision of the reentry division of court.
- (2) That the court may impose any conditions reasonably related to the rehabilitation of the defendant, including ordering the defendant to participate and complete a substance abuse program.
- (3) That the defendant is required to pay the cost of any assessments, substance abuse tests, and treatment programs to which he is assigned and the cost of any additional supervision that may be required, to the extent of his financial resources.

Proposed law retains present law and further requires the court to advise the defendant that, while in the program, the defendant shall not be eligible for parole, nor earn "good time" or additional "good time" credits for participation in certified treatment rehabilitation programs.

Present law (R.S. 15:571.3) authorizes certain prisoners to earn a diminution of sentence, or "good time", by good behavior and performance of work or self-improvement activities, or both. Further provides the rate at which an offender earns good time based on the type of offense for which the offender was convicted and prohibits certain offenders from being eligible to earn good time. Present law (R.S. 15:571.5) provides that when a prisoner is released because of diminution of sentence, he shall be released as if released on parole and supervised in the same manner as persons released on parole.

Proposed law retains present law and adds that for any prisoner released because of diminution of sentence pursuant to present law on or after Aug. 1, 2020, the committee on parole may impose special conditions of supervision which include participation in additional programming by the prisoner as determined to be necessary by a validated risk-assessment tool approved by the department.

Present law (R.S. 15:574.2(C)(4)) provides "administrative parole" for offenders who are otherwise eligible for parole and who commit an offense on or after Nov. 1, 2020, other than a crime of violence or a sex offense. Administrative parole allows the offender to be released on the date of his parole eligibility without a hearing before the committee on parole if the offender meets certain requirements set forth in present law, including the requirement that the offender complete a case plan developed by DPS&C. In this regard, present law requires DPS&C to notify the committee on parole in writing of an offender's compliance or noncompliance with the case plan not less than 60 days before an offender's administrative parole release date.

Proposed law repeals present law removing the availability of "administrative parole" and the requirement that DPS&C notify the committee on parole of the offender's compliance or noncompliance with the case plan.

Present law (R.S. 15:574.4.1) provides that when the committee on parole grants parole, the release date shall be fixed by the committee on parole and cannot exceed a period of six months after the parole hearing or the most recent consideration of the inmate's case. However, present law authorizes the committee on parole to extend this period to a maximum of nine months after the parole hearing or the most recent consideration of the inmate's case, if the committee on parole determines that to ensure public safety and the offender's opportunity for success, completion of one or more specific rehabilitative programs is required prior to the inmate's release.

Proposed law retains present law and further authorizes the committee on parole, when granting parole of a prisoner who was sentenced as a habitual offender pursuant to present law (R.S. 15:529.1), to extend this period to a maximum of one year after the parole hearing or the most recent reconsideration of the prisoner's case if the committee on parole determines that it is necessary for the prisoner to participate in a work release program. Proposed law further amends the eligibility requirements for the present law (R.S. 15:1111) work release program to allow for participation by such offenders.

Present law (R.S. 15:574.9) provides that any offender who has been released on parole and who has been determined by the committee on parole to have committed a technical violation of the conditions of parole, as defined by present law, shall be required to serve the following sentences for such violations:

- (1) For the first technical violation, not more than 15 days.
- (2) For a second technical violation, not more than 30 days.
- (3) For a third or subsequent technical violation, not more than 45 days.
- (4) For custodial substance abuse treatment programs, not more than 90 days.

Proposed law amends present law to provide that for a third violation, the offender is required to serve a sentence of up to 45 days, and for a fourth or subsequent violation, the offender may be required to serve a sentence of up to 90 days.

Present law (R.S. 15:574.4.4) provides that certain offenders are eligible for intensive parole supervision upon successful completion of an intensive incarceration program established and administered under present law. In this regard, present law provides that when an offender completes intensive incarceration, the committee on parole shall review the case of the offender and recommend either that the offender be released on intensive parole supervision or that the offender serve the remainder of his sentence as provided by law.

Proposed law removes from present law the intensive parole supervision program established within the intensive incarceration program. In this regard, proposed law deletes from present law the provision which requires the committee on parole to review the case of an offender who completes the intensive incarceration program and the committee's authority to recommend that the offender be released on intensive parole supervision. Makes further technical changes to provisions of present law regarding sanctions for probation revocation and parole of habitual offenders and sex offenders to conform with the repeal of the intensive parole supervision program established under present law (R.S. 15:574.4.4).

(Amends R.S. 15:529.2(A), 571.5(B)(2), 574.4(C)(2)(a)(intro. para.) and (b), 574.4.1(A)(1) and (D)(1), 574.4.3(B), 574.4.4, 574.9(H)(1)(a)(intro. para.), (iii), and (iv), 827(A)(7), and 1111(I)(1) and C.Cr.P. Art. 901.1; Adds R.S. 13:5401(B)(3)(d), R.S. 15:571.5(B)(3), 574.4.1(D)(3), and 574.9(H)(1)(a)(v); Repeals R.S. 15:574.2(C)(4))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove the authority of the committee on parole to revoke the parole of an offender who commits a fourth or subsequent technical violation and instead require the offender to serve a sentence of up to 90 days.

2. Delete the provision which requires the committee on parole to review the case of an offender who completes the intensive incarceration program provided for in present law and the committee's authority to recommend that the offender be released on intensive parole supervision, and make other technical amendments with regard to this change.